

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

BEACH PATIO, LLC, RAFI ADI, ELIOR
ADI, ZUR ADI, YAACOV LEVY, and LIAT
ADI a/k/a Liat Levy,

Plaintiffs,

vs.

MAXUM INDEMNITY COMPANY,

Defendant.

C/A No.: 4:21-cv-_____

**NOTICE OF REMOVAL
BY DEFENDANT MAXUM
INDEMNITY COMPANY**

Defendant Maxum Indemnity Company hereby gives notice, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, that it has this day removed to the United States District Court for the District of South Carolina, Florence Division, the above-captioned matter, originally filed in the Circuit Court for Horry County, South Carolina. Removal is based on diversity jurisdiction and is proper for the reasons set forth below.

BACKGROUND

This suit arises from a claim for property damage which allegedly occurred on September 14, 2018 in Horry County, South Carolina. [**Exhibit A**, Summons and Complaint at ¶¶ 14, 15]. Plaintiffs allege that Defendant Maxum Indemnity Company is liable to them for breach of contract, bad faith refusal to pay benefits due and improper claims practices. Plaintiffs assert that they have been damaged by Defendant Maxum Indemnity Company's failure to pay for wind and rain damage suffered to their property [**Id.** at ¶¶ 31, 32].

As set forth more fully below, this is a dispute between corporations domiciled in different states, and, upon information and belief, the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. As such, this Court has jurisdiction pursuant to 28 U.S.C. §§ 1332, and Defendant's removal is proper.

TIMELY REMOVAL

Plaintiffs filed the Summons and Complaint in this matter on June 23, 2021 [Ex. A]. Plaintiffs served Defendant Maxum Indemnity Company by way of service on Defendant's counsel on July 2, 2021 [Ex. B, **Acceptance of Service**]. As such, this Notice of Removal is timely filed within thirty (30) days pursuant to 28 U.S.C. § 1446(b). Defendant has sought no similar relief with respect to this matter.

DIVERSITY JURISDICTION

The Complaint demonstrates that complete diversity of citizenship exists between the parties. Plaintiff, Beach Patio, LLC, is a limited liability corporation domiciled in Horry County, South Carolina. [Ex. A at ¶ 1]. Plaintiffs Rafi Adi, Elior Adi, Zur Adi, Yaacov Levy, and Liat Adi a/k/a Liat Levi (collectively, the "Member Plaintiffs") are all residents of Horry County, South Carolina [Ex. A at ¶ 2]. Defendant Maxum Indemnity Company is a corporation organized and existing under the laws of a state other than South Carolina, *i.e.* Connecticut, with its principal place of business in Connecticut. [Ex. C, National Association of Insurance Commissioners (NAIC) Property & Casualty Company Demographics Information].

With regard to the amount in controversy, Plaintiffs assert claims for breach of contract, bad faith refusal to pay benefits due, and improper claims practices, [Ex. A at ¶¶ 33, 36, 41]. Plaintiffs seek actual damages, consequential damages, punitive

damages, and attorney's fees. [**Ex. A ¶ A**]. This plea satisfies the amount in controversy requirement. See *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014) (Defendant's notice of removal "need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold").

VENUE

Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a). The Florence Division of the District of South Carolina embraces the Horry County Circuit Court for the State of South Carolina, the forum in which the removed action was pending.

NOTICE

Defendant is giving counsel for the Plaintiffs written notice of the removal of this action and has provided a copy of the Notice of Removal to the Clerk of Court for the Circuit Court for Horry County, as required by 28 U.S.C. § 1446(d).

PROCESS AND PLEADINGS

Exhibit A constitutes all process, pleadings and orders filed in this matter served on Defendant. Defendant has filed no pleadings in this matter at present, but will move, plead, or otherwise respond to the complaint within seven (7) days of the filing of this Notice of Removal, in accordance with Rule 81(c) of the Federal Rules of Civil Procedure.

Defendants Maxum Indemnity Company has simultaneously served herewith its Rule 7.1 Corporate Disclosure Statements and responses to Local Civ. Rule 26.01 (D.S.C.) Interrogatories.

CONCLUSION

WHEREFORE, this action is hereby removed from the Horry County Circuit Court to the United States District Court for the District of South Carolina, Florence Division,

pursuant to the applicable sections of the United States Code.

Respectfully submitted,

s/R. Bruce Wallace

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Maxum Indemnity Company

July 29, 2021

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **DEFENDANT'S NOTICE OF REMOVAL** has been served upon the following counsel of record by email delivery, addressed as shown below this 29th day of July, 2021.

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